

SERALA SA TLHAMO

Vol 1 - Edition 3



VISION

To be the best
Collective Management Organization



MISSION

We empower Creativity



VALUES

Results Driven
Botho and Integrity
Transparency and Accountability
Teamwork



cosbots

Copyright Society of Botswana



EDITORS NOTE

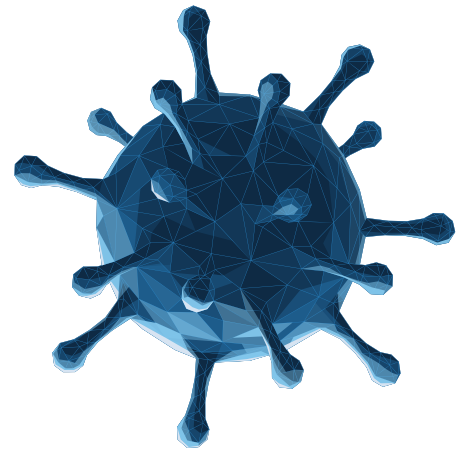
Since the COVID-19 outbreak was first diagnosed and the first few cases of the novel virus were confirmed in Wuhan, China, its effects have negatively affected global economic growth beyond anything experienced in nearly a century, it is truly unprecedented. This global pandemic has affected families, businesses, communities and the general way of life of mankind. The pandemic has accelerated the risks of a global economic recession with a knock-on effect on unemployment numbers not experienced since the Great Depression of the 1930s. The whole creative industry has undoubtedly been dealt a heavy blow by the effects of the advent of this disease. During the early days of the pandemic, Botswana imposed social distancing guidelines that restricted movement and closure of all businesses termed as non-essential, these enterprises included live performances by artists and the traditional retail channel through which artists sell their music. These businesses remain affected to this day. The pandemic-related economic and human costs could potentially have long-term repercussions for world economies through the tragic loss of life and job losses that derail careers and permanently shut down businesses.

In some countries, the pandemic has elevated the importance of innovation in doing business for them to counter the negative effects of the disease. The particular businesses in question have leveraged digital platforms to conduct business and further their trade. This strategy has worked for international artists that have harnessed digital connectivity to participate in the creative revolution and used it to help them flourish. An example of how technology can be harnessed to benefit musicians is the

developer of a new live music platform and social network for musicians called JamKazam, which enables musicians to play together in real time from different locations over the internet as if they are sitting in the same room. JamKazam also announced its first annual virtual jam fest, which will let music fans across the world tune in to hear six critically acclaimed bands as they each play together live in real time from four different locations. Speaking of digital connectivity, we are happy to announce that for the first time since we launched our online services, we have managed to record a significant increase in registration of online works and applications for membership.

Artists in some instances however do not have the means to connect to digital platforms to leverage these virtual services for their benefit. The changes in dynamics in the industry through the rise of streaming platforms means artists are now more than ever compelled to go the digital route which is hinged on the concepts of subscription and sharing. Both these concepts have precipitated the move

IF NOTHING CHANGES, NOTHING CHANGES



from product to service and will gradually replace the conventional pay-per-product (or service) approach.

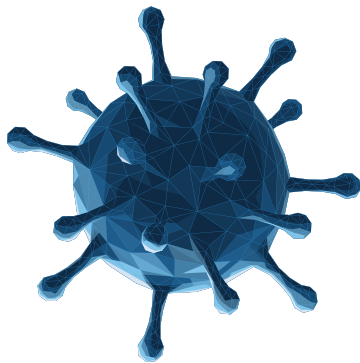
Our team is excited about the online services on offer and has as a result committed time and resources to provide technical advice to members working on online submission of their works.

Based on the importance of the creative industry in providing entertainment to mainstream society, we wish to use this opportunity to applaud the heroes and heroines that have taken their trade to the digital platforms and continued to produce quality music which is shared with multitudes of people through holding live shows and selling the events online. As one can imagine, this provides communities with access to beautiful music and give artists a global market place rather than a local or regional one for their music. Online performances are often referred

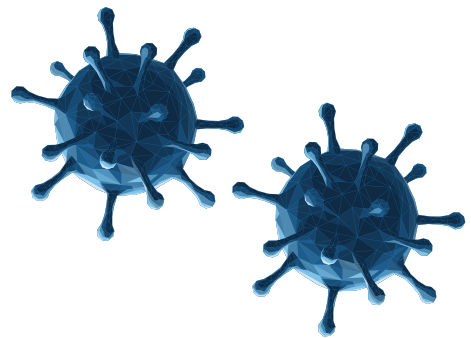
to as “laptop concerts” or “webcasts” and hosted on platforms such as Stage – it or using social media tools like “Facebook Live”.

It is our ardent hope that in the foreseeable future, the industry in Botswana can adapt to the new normal, and the world continue to enjoy entertainment from the local genre. This will in turn assist artists to recover from hardships caused by the effects of the Corona Virus.

In our last edition, SERALA SA TLHAMO pledged in this feature to delve in the process of licensing in a Collective Management organization, and introduce readers to Reprographic rights management. I hope you enjoy this bulletin.



MAFOKO A MORULAGANYI



Mo seemong se lefatshe le iphitlhelang le apere kobo ka letshoba ka ntlha ya leroborobo la Covid – 19, SERALA SA TLHAMO se tsweledisa tema ka go fa tshedimoso mo mehameng ya botaki jwa ditshwantsho tsa motshikinyego, difilimi, tse di amang poko, petlo, jalo jalo.

Go tswa goo- lowe, dikgwebo tse di amanngwang le tsa- ngwao le botaki lefatshe ka bophara di supile fa di na le go kokonelwa bobele ke manokonoko a dibetsa tsa tlholego. Se ga ntsi se bakiwa ke mofuta le mokgwa o re le badiragatsi re sekamelang thata mo go one wa go diragatsa mo dikhonsateng.

Mogare wa Corona o re se kitlang re o lebala o re tshabile podi matseba go nna le ponelo pele, le go ithuta go dirisa metlhale e mesha ya go isa bokgeleke jwa rona ko bathong.

Mo pading e e fitileng SERALA SA TLHAMO se ne sa tlisa dipolelwana ka tiriso ya maranyane a inthanete ka maikaelelo a go tsibosa batlhami go dirisa metlhale e go tla dibetso tsa tlholego tse di kgonang go re itsa go tshwara dikhonsata mo mafelong a itloso bodutu a a tlwaelesegileng.

COSBOTS TRANSITIONS TO THE DURATION BASIS OF CALCULATING ROYALTIES

Having successfully implemented Veri-cast, a digital musical monitoring platform, based on digital fingerprinting technology, we have decided to migrate from using the per-play allocation basis which is based on frequency of play, to a fairer and more equitable basis, which is duration based. This development has been made possible by the monitoring system's ability to record the duration of each song played.

Below is an illustration of how the two methods of calculating royalty payments works. A hypothetical Net Distributable Revenue (NDR) of – P50, 000 is used to illustrate a distribution.

Log Sheet Data

Track	Artist	Plays	Duration (sec)
Track ABC	MD Tuner	2024	6406
Track DEF	Monana	1478	27587
Track GHI	Rob	1038	18358
Track JKL	DJ Mix	782	25953
Track MNO	Matona	679	72915
Track PQR	Armanda	673	50166
TOTALS		6674	201385 Secs

The table below provides the calculations based on the two basis of allocation for distributing the P50, 000 hypothetical royalties.

Calculations

Per-Play Calculations	Per-Second Calculations
Step1: Determine Value per Play $\text{NDR} / \text{Total Plays}$ $50,000 / 6674 = \text{P7.49 per play}$	Determine Value per Second $\text{NDR} / \text{Total Duration (sec)}$ $50,000 / 201385 = \text{P0.24 per second}$



The table below provides songs and artists that produced as well as the total number of times the songs have played and the durations of time that song has been performed:

Calculations

Step 2: Compute Royalties due to a song/track	Step 2: Compute Royalties due to a song/track
Track ABC: $2024 \times 7.49 = P15,159.76$	Track ABC: $6406 \times 0.24 = P1,537.44$
Track DEF: $1478 \times 7.49 = P11,070.22$	Track DEF: $27587 \times 0.24 = P6,620.88$
Track GHI: $1038 \times 7.49 = P7,774.62$	Track GHI: $18358 \times 0.24 = P4,405.92$
Track JKL: $782 \times 7.49 = P5,857.18$	Track JKL: $25953 \times 0.24 = P6,228.72$
Track MNO: $679 \times 7.49 = P5,085.71$	Track MNO: $72915 \times 0.24 = P17,499.60$
Track PQR: $673 \times 7.49 = P5,040.77$	Track PQR: $50166 \times 0.24 = P12,166.84$
TOTAL: 49,988.26	TOTAL: 48,459.40

NB: The difference in the NDR are rounding differences

COSBOTS

E FETOLA LEWA GO BONA DIPOELO



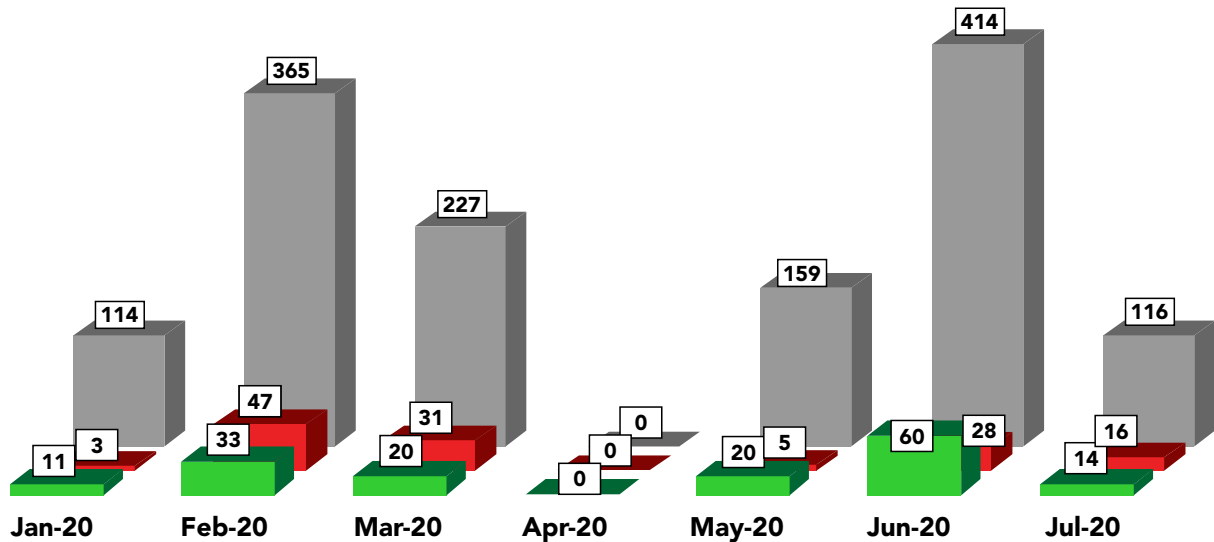
Jaaka nngwe ya dikhamphani tse di santseng di gola segolo bogolo mo Afrika, COSBOTS e bone gole maleba go itsetela – adimo go emelana le dikgwetlho tsa go phutha madi a ditiro tsa botlhami. O ka akanya gore jaaka nngwe e e dirang botoka ebile e balelwa mo go tse di itshetetseng mo go tliseng ditirelo tsa go kgobokanya le go abela beng ba ditiro madi, tiro e bonolo.

Kgwetlho kgolo e e sa robatseng boeteledi pele le batlhami ka kakaretso mo Botswana jaaka kwa mafatsheng a mangwe, e nna bontsi jwa badirisi ba ditiro tsa botlhami ba ba le supang le lefa, go duela ditesi tsa tiriso le ntswa dikgwebo tsa bone di ikaegile mo ditlhamong. Mo maitemogelong a se, COSBOTS e rekile dithuso tsa baitseanape go tswa kwa lefatsheng la Spain jo bo dirisang botlhale jwa go kapa mo moweng ditiriso tsa dipina gongwe le gongwe le go baya leitlho lebaka le pina e nnileng mo tirisong. Se se solofetswe go netefatsa dipoelo tse di maleba mo batlhaming le go fokotsa lebaka le COSBOTS e le tsayang go rulaganyetsa go duela batlhami.

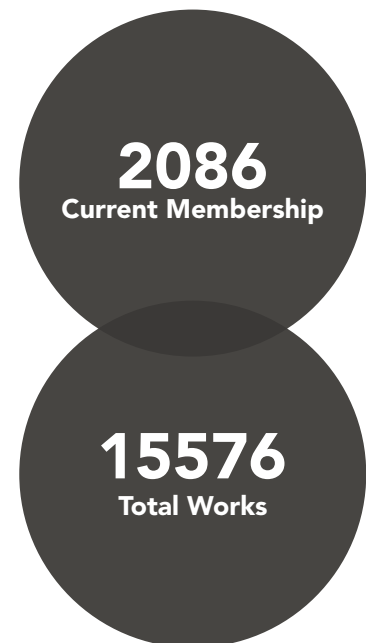
COSBOTS e dumela fa tiriso ya maranyane a e tla emisa gotlhelele selelo sa maloko ka jaana a tla papamatsa bosupi jwa kwa dipina tsa bone di dirisitsweng teng le lebaka la tiriso.

MEMBERSHIP REGISTRATIONS: JAN - JUL 2020

■ New Members ■ Existing Members ■ Total Works



SUMMARY OF THE REGISTRATIONS: JAN - JUL 2020





LICENSING IN THE DIGITAL AGE

THE NEED TO AMEND THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT AND THE OPERATING ENVIRONMENT

As we get more and more creative works being produced locally, which works are eligible for copyright protection, and with the evolution of new technologies it has become increasingly important that we elevate the profile of Copyright in the public discourse to help us find real remedies to the copyright holders that are harmed by infringement in the digital space. The best place to start is with discussing the Copyright and Neighbouring Rights Act Chapter 68:02.

Copyright in the music arena have a number of rights that it can grant to copyright holders for the use of their works, however amongst these rights there are three rights that are essential in the music licensing context. These rights are i) the reproduction right, ii) the distribution right, and iii) the public performance right.

The right of reproduction is the right to duplicate, transcribe, imitate, or simulate a work in a fixed form. In the context of music copyrights, the right of reproduction authorizes the copying of musical works (e.g., duplicating sheet music) or sound recordings. Infringement of these rights would be the unlawful copying of the copyrighted work.

The right of distribution establishes the right to distribute copies or phonorecords of a

copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending. In the context of music copyrights, the right of distribution permits the sale of copies (sheet music) or phonorecords (sound recordings) to the public. Infringement of this right would be any unauthorized public distribution of a copy or phonorecord.

The right of public performance means the exhibition, rendition, or playing of a copyrighted work, either directly or by means of any device or process. Public performance not only covers the initial rendition, but also any further act by which the rendition is transmitted or communicated to the public. In the context of music copyrights, the public performance right allows promotion and performance of the music. Infringement of this right would be the public performance of a copyrighted work without the consent of the copyright holder.

Traditionally it has always been the case that the unauthorized use of a copyrighted work constitutes infringement of the particular exclusive right at issue, unless the action is permitted by a statutory exception. According to copyright legislation, copyright holders may file a lawsuit against an alleged infringer for a violation of any of the exclusive rights conferred by copyright. This is not in dispute. What is

contentious however is that in its current form, the Copyright and Neighbouring Rights Act Chapter 68:02 does not offer any legal protection to control reproduction and distribution of music from the perspective of digital audio service providers (Internet radio, cable/satellite radio providers, etc.) sufficient enough to address the immediate problem of music piracy.

Technological advances in music transmission methods dictate that Government and the regulator, CIPA (Companies and Intellectual Property Authority) should urgently attend to revising the Act so that this piece of legislation amplifies the issue of public performance rights for sound recording copyright holders in the digital age, which will at the same time provide for and clarify the treatment of different types of digital audio transmissions. It goes without saying that a very strong case exists for the powers that be to promulgate legislation for the protection of copyrighted works that are digitally transmitted over the Internet. There is certainly disquiet in the local music industry about consumers using new technologies such as on-demand digital cable music services and other interactive services to listen to music and potentially record the digital audio transmissions, thereby eliminating their need to purchase physical sound recording media and causing an increase in the amount of unauthorized duplication of their music.

Without pre-empting the specific changes that we need to see in the Act, we think it is worth noting that a major change that needs to happen is the introduction of provisions in the Act that address the licensing of digital reproduction and distribution of music works and the digital performance and distribution of sound recordings. This country needs to follow the example of the rest of the world by introducing legislation that provides civil remedies to copyright holders that are harmed by infringement of their works that is digitally transmitted over the Internet. The law would create a public performance right for sound recordings performed through digital audio

transmissions, thereby establishing a mechanism for controlling digital deliveries that pose a threat to the sales of CDs. Because sound recording copyright holders do not have a general public performance right, this amendment to the Act that we have in mind would establish a right in "digital audio transmissions" for sound recorders for which copyright holders could take remedial legal action.

Once the legislation has changed to encompass digital downloads and interactive streaming services, COSBOTS would then need to gear-up to license music for digital reproduction and distribution and establish royalty rates and terms covering limited downloads and interactive streaming. By digital downloads here we mean digital transmission of a sound recording, which result in a specifically identifiable reproduction which is done by organisations referred to as Music Streaming Service aka DSP's (such as Spotify, Apple Music, YouTube Music, Deezer, Tidal, Amazon Music, Sound Cloud, etc). There is also what is referred to as streamed transmission, which is real-time transmissions where no reproduction of a sound recording is made for purposes of the transmission.

Music licensing is a complex area of overlapping and sometimes competing interests and responsibilities, the essence of licensing remains in the context of permission—whether voluntarily negotiated or statutorily compelled. When all is said and done, we as Botswana need to invest in proper arsenal that will act as the panacea to the headaches of administering the rights of copyright owners whose works are ever present on the various digital platforms. This figurative arsenal will certainly help a music licensing entity such as COSBOTS to better collect and distribute royalties to copyright holders on the basis of payments that reflect actual performance data furnished by subscription service providers, webcasters, and other licensees for artists digital music catalogues.

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